

**DMA Policy: 3-0180**

**Name: DMA STANDARDS OF CONDUCT**

**Reference: MOM 3-0180**

**Reference: Title 2, Chapter 2 M.C.A.**

**Approval Signature: John E. Walsh**

**Effective Date: September 1, 2008**

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## **POLICY AND OBJECTIVES**

1. It is the policy of the Department of Military Affairs that all state employees carry out their duties for the benefit of the people of the state.
2. It is the objective of this policy to implement 2-18-102(4), MCA, which requires that each state agency adopt model rules of conduct for all state employees based on the provisions of Title 2, Chapter 2 of the Montana Code Annotated.
3. The Department of Administration publishes a pamphlet entitled "Ethics – Standards of Conduct For State Employees." This pamphlet will be provided to all state employees as part of agency specific rules of conduct. The pamphlet is available at:  
<http://hr.mt.gov/HRServices/Guides/standardsofconductguide.doc>

## **DEFINITIONS**

For the purposes of this policy, the following definitions apply:

1. "Agency" means, as provided in section 2-18-101, MCA, a department, board, commission, office, bureau, institution, or unit of state government recognized in the state budget.
2. "Employee" means:
  - (a) any temporary or permanent employee of the state;
  - (b) a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority; and
  - (c) a person under contract with the state.
3. "Management" means immediate supervisors and division administrators or program managers in an agency who have the authority to enforce agency standards of conduct.

## **REPORTING AND DISCLOSURE REQUIREMENTS**

1. Disclosing conflicts of interest.
  - (a) Montana law prohibits a state employee from regulating, monitoring, or engaging in financial transactions with entities that serve the employee's private business purposes or for an entity which the employee serves as an officer. (See section 2-2-121(2), MCA)
  - (b) An employee must disclose the potential conflict of interest to agency management prior to taking any action that might violate the law.
2. Disclosing overlapping public employment.
  - (a) With some exceptions, Montana law prohibits a state employee from receiving pay for two separate public employment positions that have overlapping hours. (See section 2-2-104(3), MCA)
  - (b) An employee must disclose employment in public positions that may overlap to agency management prior to accepting such employment.
  - (c) The Administrative Rules of Montana at 44.10.601 also require that state public employees, state public officers, and legislators, who receive multiple salaries from multiple public employers for overlapping work hours, report their employment and salaries to the Commissioner of Political Practices within 15 business day of the occurrence, contract agreement, or receipt of payment.
3. Reporting employment offers.
  - (a) Montana law prohibits soliciting or accepting employment, or engaging in negotiations to consider employment, with an entity an employee regulates unless the employee provides written notification to the agency. (See section 2-2-121 (2) (f), MCA)
  - (b) An employee must report such employment activity to agency management in writing prior to engaging in any official regulatory duties.
4. Reporting even the appearance of impropriety.
  - (a) Montana law requires that an employee disclose to the Commissioner of Political Practices any private interest that creates a conflict that may infringe on the employee's ability to perform assigned duties in the best interest of the public (public duty). (See sections 2-2-105(4) and 2-2-131, MCA)
  - (b) When any such disclosure is made, and prior to taking any official action which may infringe on the employee's public duty, the employee also must report this information to agency management.
5. Reporting gifts and offers intended to influence employee's actions.
  - (a) Montana law prohibits employees from accepting any payment for performing official duties as well as gifts over \$50 in value. It also prohibits gifts intended to influence an employee's official actions such as patterns of non-substantial gifts, educational offers, and reduced rates on loans or goods. (See sections 2-2-104 (1) (b) and (2), MCA and section 45-7-104, MCA)
  - (b) An employee must report all prohibited gifts and offers of gifts or payments to agency management.
6. Reporting crimes.
  - (a) An employee must report any crime, attempted crime, or crime that an employee believes is being planned to their division administrator/program manager or Human Resource Officer, who in turn will report to the Agency Director. The Agency Director or his/her designee will notify the proper law enforcement authority.



7. Disclosure by Agency Directors.
  - (a) Montana law requires that each agency director file a business disclosure statement with the Commissioner of Political Practices prior to December 15 of each even-numbered year. (See section 2-2-106, MCA)

### **INVESTIGATION AND ENFORCEMENT**

1. Agency management has a duty to investigate information reported or disclosed and determine the appropriate administrative action.
2. Any person who believes an employee violated this policy or statewide standards of conduct may file a complaint with agency management, the Commissioner of Political Practices, or both.
3. An employee who violates this policy or the standards of conduct provided in section 2-2-101, et al., MCA may be subject to disciplinary action in accordance with the state Discipline Policy (MOM #3-0130).

### **CLOSING**

- 1 All DMA state employees shall follow the provisions of this policy unless it conflicts with specific statutes or negotiated labor contracts which take precedence to the extent applicable.